

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF WISCONSIN

DERRICK GLEN POWE,

Case No. 16-cv-403-pp

Petitioner,

v.

UNITED STATES OF AMERICA,

Respondent.

**ORDER GRANTING PARTIES' REQUEST TO STAY BRIEFING PENDING THE
SUPREME COURT'S DECISION IN BECKLES (DKT. NO. 5)**

The plaintiff filed this motion to vacate, set aside or correct sentence pursuant to 28 U.S.C. §2255 on April 1, 2016. Dkt. No. 1. The motion asserts that the petitioner's sentence was enhanced under U.S.S.G. §4B1.1, based in part on a prior state-court conviction for attempted burglary. Id. at 1. The motion alleges that after the United States Supreme Court's decision in Johnson v. United States, 135 S. Ct. 2551 (2015), this offense no longer can be considered a predicate offense under the residual clause of the career offender guideline. Id.

On April 21, 2016, the late Judge Rudolph T. Randa stayed the case until the Seventh Circuit could decide United States v. Hurlburt/Gillespie, ___ F.3d ___, 2016 WL 4506717 (7th Cir., August 29, 2016) and United States v. Rollins, ___ F.3d ___, 2016 WL 4587028 (7th Cir., August 29, 2016). Dkt. No. 2. The Seventh Circuit since has decided those cases, and on September 26, 2016, this court (to whom the case was assigned on August 3, 2016) lifted the

stay, and ordered the parties to file statements telling the court whether they thought the court ought to further stay proceedings in the case until the United States Supreme Court decides Beckles v. United States, 136 F. Ct. 2510 (June 27, 2016). Dkt. No. 3.

The parties, through a letter filed by counsel for the respondent, have indicated that they agree that the court should stay further proceedings in the case until the Supreme Court issues its decision in Beckles. Dkt. No. 5. The court agrees.

The court **ORDERS** that all briefing in this case is **STAYED**. The court further **ORDERS** that, within thirty (30) days of the Supreme Court issuing its decision in Beckles, the respondent shall notify the court whether it intends to oppose the petition.

Dated in Milwaukee, Wisconsin this 1st day of November, 2016.

BY THE COURT:

A handwritten signature in black ink, appearing to be 'P. Pepper', written over a horizontal line.

HON. PAMELA PEPPER
United States District Judge